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REMARKS

In a telephone conversation on April 28th, 2006, Applicant discussed several proposed claim amendments, and appropriate amendments are now being presented for the Examiner's review.

Claim 1 is being amended to delete the word "drug" and add "active agent" as defined in the Specification at least at page 4, line 16 to page 5, line 28. This amendment broadens the claim and does not narrow the claim. Claim 14 is being amended also to broaden the word "drug" to "active agent." Claim 5 is also being broadened by removing the limitations "short-chain" and "long-chain." Thus, since claims 1, 5 and 14 are being broaden and not narrowed, the scope of the doctrine of equivalents applied to these claims should not be limited under the rules of Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 535 U.S. 722, 2002 Lexis 3818 (May 28, 2002).

Claim 4 is being amended to define "fine particle fraction" as the fraction of the particles emitted from the inhaler as determined by an Anderson Cascade Impaction or multi-stage liquid impinger. This amendment is supported by the Specification at least at page 6, lines 23-30. Since the proposed amendment only makes express, a recitation of a feature that already expressly in the original claim, it is not a narrowing of the scope of the properly construed claim. TurboCare v. General Electric Co., 264 F.3d 1111 (Fed. Cir. 2001); Bose Corp. v. JBL, Inc., 274 F.3d 1354 (Fed. Cir. 2001); and Interactive Pictures Corp. v. Infinite Pictures, Inc., 274 F.3d 1371 (Fed. Cir. 2001).

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REMARKS

Claims 1, 3-5 and 11-15, which are pending in the application, were allowed by the Office Action dated December 21, 2005.

The Examiner indicated that there were two tables marked as Table 3 in the application and requested correction of the same.

Applicant is changing the second table marked Table 3 to read as "Table 4A" and is changing Table 4 to read as "Table 4B".

With this correction, the present application is now in condition for allowance and Applicant respectfully requests a Notice of Allowance. Should the Examiner have any questions regarding the above remarks, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,
JANAH & ASSOCIATES, P.C.

Date: February 21, 2006

By: _____

Ashok Janah
Reg. No. 37,487

Please direct all telephone calls to: Ashok K. Janah at (415) 538-1555.

Please continue to send correspondence to:

Michael Einschlag,
Nektar Therapeutics, Inc.
150 Industrial Road,
San Carlos, CA 94070.

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The above-discussed amendments are believed to place the present application in condition for allowance. Should the Examiner have any questions regarding the above remarks, the Office Action is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,
JANAH & ASSOCIATES, P.C.

Date: April 28th, 2006

By: 

Ashok Janah
Reg. No. 37,487

Direct telephone calls to: Ashok K. Janah at (415) 538-1555 or cell (415) 680-0546.

Please continue to send correspondence to:

Michael Einschlag,
Nektar Therapeutics, Inc.
150 Industrial Road,
San Carlos, CA 94070.